167 FERC ¶ 61,258
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Midcontinent Independent System Operator, Inc.	Docket Nos. ER19-1124-000 ER19-1125-000

ORDER REJECTING PROPOSED TARIFF REVISIONS

(Issued June 24, 2019)

1. On February 25, 2019, in Docket No. ER19-1124-000, pursuant to section 205 of the Federal Power Act[1] and section 35.13 of the Federal Energy Regulatory Commission's regulations,[2] Midcontinent Independent System Operator, Inc. (MISO) and the MISO Transmission Owners[3] (collectively, Filing Parties) filed revisions to Attachment FF and a new Attachment FF-7 to the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). The stated purpose of these revisions is to modify and expand the identification of and the cost allocation for transmission facilities that provide regional and local economic benefits within the MISO footprint. Filing Parties made a concurrent filing pursuant to FPA section 205 with changes to the Agreement of Transmission Facilities Owners to Organize the MISO, A Delaware Non-Stock Corporation (MISO TO Agreement), in Docket No. ER19-1125-000, to incorporate the proposed changes to the Tariff.[4] In this order, we reject the MISO Regional Filings because Filing Parties have not shown that the proposed cost allocation method for Local Economic Projects is just and reasonable. We also provide guidance on how Filing Parties might refine their proposal if they choose to make a new filing with the Commission.

[1] 16 U.S.C. § 824d (2012).

[2] 18 C.F.R. § 35.13 (2018).

[3] The participating MISO Transmission Owners for purposes of this filing are listed in the appendix.

[4] We refer to both filings together as the MISO Regional Filings.

I. **Background**

A. **Market Efficiency Projects**

2. In Order No. 1000,[5] the Commission, among other things, established new requirements for regional transmission planning and cost allocation, and enacted reforms addressing non-incumbent transmission developer participation in the regional transmission planning process. MISO and the MISO transmission owners submitted a series of compliance filings to implement these requirements, which the Commission ultimately accepted.[6] In those filings, MISO relied on two categories of transmission projects with associated Order No. 1000 regional cost allocation methods—Market Efficiency Projects[7] and Multi-Value Projects.[8] Most relevant to this order are Market Efficiency Projects.

3. Currently, to qualify as a Market Efficiency Project, a transmission project must cost at least $5 million and consist of facilities that have voltages of 345 kV or higher that constitute more than 50 percent of the combined project costs. Additionally, in order to be selected in the MTEP, a Market Efficiency Project must have a total regional benefit-to-cost ratio of at least 1.25-to-1, with benefits measured using an Adjusted Production Cost Savings metric. If MISO selects a Market Efficiency Project in the MTEP, the

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[5] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth*. v. *FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[6] Tariff Filing at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 150 FERC ¶ 61,037 (2015); *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 (2014); *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 (2013); and *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket No. ER13-187-010 (March 31, 2015) (delegated order)).

[7] A Market Efficiency Project is a network upgrade that provides market efficiency benefits to one or more Market Participants, but not found by MISO to be a Multi-Value Project, and that provides sufficient market efficiency benefits to justify inclusion in the MISO Transmission Expansion Plan (MTEP). MISO Tariff, Module A, §1.M, Definitions – M. *See also* MISO Tariff, Attachment FF, § II.B.

[8] A Multi-Value Project is one or more network upgrades that address a common set of Transmission Issues and satisfy the conditions listed in Sections II.C.1, II.C.2, and II.C.3 of Attachment FF. MISO Tariff, Attachment FF, § II.B

project is then subject to MISO's Competitive Developer Selection Process, under which qualified developers submit bids to construct the Market Efficiency Project. MISO designates the winning developer to construct the project and that developer, whether an incumbent or a non-incumbent, is then eligible to use the Market Efficiency Project regional cost allocation method. The current Market Efficiency Project cost allocation method assigns 20 percent of the cost of a Market Efficiency Project on a postage stamp basis across the entire MISO footprint and 80 percent of the costs to Cost Allocation Zones based on each zone's proportion of the Adjusted Production Cost Savings.

B. Local Transmission Facilities

4. Order No. 1000 recognized the potential for local transmission facilities to be included in a regional transmission plan for informational purposes. It defined a local transmission facility as "a transmission facility located solely within a public utility transmission provider's retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation."[9] MISO includes two types of local transmission facilities in the MTEP—Baseline Reliability Projects and "Other Projects." Baseline Reliability Projects are network upgrades operating at 100 kV or above that are needed in order to comply with reliability obligations.[10] The Other Projects category is for projects that do not fall into any other category of transmission projects but that MISO nonetheless includes in the MTEP.[11] Because Baseline Reliability Projects and Other Projects are not selected in the regional transmission plan

[9] Order No. 1000, 136 FERC ¶ 61,051 at PP 63-64.

[10] Baseline Reliability Projects are network upgrades identified in the MTEP as required to ensure the Transmission System is in compliance with applicable national Electric Reliability Organization reliability standards and reliability standards adopted by Regional Entities and applicable to MISO transmission owners' planning criteria filed with federal, state, or local regulatory authorities, and applicable federal, state and local system planning and operating reliability criteria. MISO Tariff, Module A, § 1.B, Definitions – B.

[11] *See* MISO Tariff, Attachment FF, § III.A.2.k ("Other Projects: Unless otherwise agreed upon pursuant to Section III.A.2.a. of this Attachment FF, the costs of Network Upgrades that are included in the MTEP, but do not qualify as Baseline Reliability Projects, New Transmission Access Projects, Targeted Market Efficiency Projects, Market Efficiency Projects, or Multi-Value Projects shall be eligible for recovery pursuant to Attachment O of this Tariff by the Transmission Owner(s) and/or ITC(s) paying the costs of such project, subject to the requirements of the [MISO TO Agreement].").

for purposes of cost allocation,[12] they are not eligible to use the MISO regional cost allocation methods. Instead, 100 percent of the costs of Baseline Reliability Projects and Other Projects are allocated to the zone where the project is physically located. In addition, Baseline Reliability Projects and Other Projects are not subject to the Competitive Developer Selection Process.

C. Northern Indiana Public Service Company Complaint

5. On September 11, 2013, Northern Indiana Public Service Company (NIPSCO) filed a Complaint (NIPSCO Complaint) against MISO and PJM Interconnection, L.L.C. (PJM), asking the Commission to require MISO and PJM to reform the MISO-PJM Joint Operating Agreement (MISO-PJM JOA) interregional transmission planning process based, in part, upon allegations of insufficient selection and development of interregional transmission projects between these two regions.[13] On April 21, 2016, the Commission issued an order granting, in part, and denying, in part, the NIPSCO Complaint, and requiring MISO and PJM to make compliance filings.[14] Among other things, the Commission directed MISO to revise the Market Efficiency Projects thresholds that apply to MISO-PJM interregional economic transmission projects by: (1) lowering the minimum voltage threshold to 100 kilovolts (kV); and (2) removing a $5 million minimum cost requirement.[15] In addition, the Commission found that MISO's proposed revisions complied with the directive to revise the Market Efficiency Project thresholds that apply to qualify as an interregional economic transmission project by lowering the minimum voltage threshold to 100 kV and by removing the $5 million minimum cost requirement. However, the Commission found that MISO did not address what regional cost allocation method should apply to MISO's share of the cost of an interregional economic transmission project operating above 100 kV but below the original threshold of 345 kV. Accordingly, the Commission directed MISO to submit a further compliance filing "to either confirm that the existing Market Efficiency Project cost allocation method will apply to MISO's share of the cost of interregional economic transmission

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[12] A transmission facility selected in a regional transmission plan for purposes of cost allocation is one that has been selected pursuant to a Commission-approved regional transmission planning process (such as MISO's MTEP) as a more efficient or cost-effective solution to regional transmission needs. Order No. 1000, 136 FERC ¶ 61,051 at P 313.

[13] NIPSCO Complaint, Docket No. EL13-88-000 (Sept. 11, 2013).

[14] *N. Ind. Pub. Serv. Co. v. Midcontinent Indep. Sys. Operator,* 155 FERC ¶ 61,058 (2016) (NIPSCO Complaint Order).

[15] *Id.* P 129.

projects above 100 kV but below 345 kV that qualify as Market Efficiency Projects or to propose tariff revisions to apply a different regional cost allocation for MISO's share of the cost of such projects."[16]

II. Filing

6. Filing Parties indicate that the proposed changes to MISO's Tariff are aimed at increasing the likelihood of identifying and approving more economically beneficial projects in MISO's transmission planning process, allocating costs to beneficiaries with greater precision, and increasing transparency. Specifically, Filing Parties propose to: (1) add two benefit metrics to allow for the expanded identification of Market Efficiency Projects and more precise allocation of Market Efficiency Project costs; (2) lower the minimum voltage threshold for Market Efficiency Projects; (3) establish a limited exception to the Competitive Developer Selection Process for Immediate Need Reliability Projects; and (4) adopt the Local Economic Project category of projects with an associated cost allocation method.[17] Filing Parties state that their proposal is a comprehensive package of reforms and that the Commission should accept this package as just and reasonable.[18]

7. Filing Parties state that the package of enhancements proposed here is the culmination of a MISO stakeholder effort begun in 2015.[19] Through various working groups, MISO and its stakeholders identified issues, evaluated alternatives, and developed solutions to several issues regarding Market Efficiency Projects. Filing Parties state that the proposed Tariff revisions are the result of compromise through the stakeholder process.[20]

8. Concurrent with these two filings, Filing Parties also filed proposed Tariff changes in Docket Nos. ER19-1156-000 and ER16-1969-005 that, among other things, identify how MISO allocates the costs within MISO of certain Interregional Economic Projects with PJM and Southwest Power Pool, Inc. (SPP). As explained in greater detail below,

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[16] *N. Ind. Pub. Serv. Co. v. Midcontinent Indep. Sys. Operator*, 158 FERC ¶ 61,049, at PP 50-51 (2017) (NIPSCO Compliance Order) (together with the NIPSCO Complaint Order, the NIPSCO Orders).

[17] Tariff Filing at 11.

[18] *Id.* at 5.

[19] *Id.* at 10.

[20] *Id.* at 11.

many of the proposed Tariff revisions discussed in the instant order would apply to Interregional Economic Project reforms proposed in the other two dockets.

A. Local Economic Projects Category

9. Filing Parties propose to create a new category of projects called Local Economic Projects, which will be economic transmission projects at or above 100 kV and below 230 kV. Filing Parties state that the current MISO Tariff lacks a specific project category and criteria for locally-beneficial economic projects and instead these projects are currently classified as "Other Projects."[21] Filing Parties explain that, historically, when MISO identified an economically driven project that did not meet the Market Efficiency Project criteria, that project was placed into the Other Project category in the MTEP. However, the Other Project category is a broadly defined category, which covers projects in the MTEP that do not belong in other defined categories. Filing Parties assert that a Local Economic Project category establishes clear and transparent criteria for review.[22]

10. Filing Parties state that costs for these economic Other Projects are currently allocated to the individual Transmission Pricing Zone[23] where the project is located. For the new Local Economic Project category, Filing Parties propose to measure benefits by using the same three benefit metrics that they propose for Market Efficiency Projects—Adjusted Production Cost Savings, Avoided Reliability Project Costs, and MISO-SPP Settlement Agreement Costs (discussed further below). Filing Parties also propose that a Local Economic Project must meet the same minimum regional 1.25-to-1 benefit-to-cost ratio that Market Efficiency Projects must meet as well as meeting a local benefit-to-cost ratio of 1.25-to-1 or greater in each Transmission Pricing Zone in which the Local Economic Project is located.[24] However, unlike Market Efficiency Projects, Filing Parties propose to allocate 100 percent of the costs of Local Economic Projects to the

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[21] *Id.* at 4.

[22] *Id.* at 34.

[23] Transmission Pricing Zones are the pricing zones that MISO uses to allocate revenues for services, such as Reactive Supply and Voltage Control. MISO, FERC Electric Tariff, Module A, § II.1.T, Definitions-T (38.0.0).

[24] Tariff Filing at 13, 35. There are currently 12 Cost Allocation Zones, which typically follow state jurisdictional boundaries. Most Cost Allocation Zones are divided into two or more Transmission Pricing Zones, and there are currently thirty-two Transmission Pricing Zones. A map and explanation of the MISO Cost Allocation Zones and Transmission Pricing zones is available in Attachment WW of the MISO Tariff.

Transmission Pricing Zone(s) in which the project is located, not based upon the benefits that MISO calculates will accrue to all impacted Transmission Pricing Zones.[25]

11. Filing Parties state that, since Local Economic Projects are primarily designed to provide economic benefits at the local level, the cost allocation of such projects will be identical to the existing cost allocation for economic Other Projects. Thus, responsibility to construct, own, and operate Local Economic Projects will reside with the Transmission Owner(s) whose zone(s) to which the Local Economic Project is connected.[26]

12. In their filing in Docket No. ER19-1125-000, Filing Parties submit revisions to Appendix B of the MISO TO Agreement to clarify that the ownership and responsibilities to construct the Local Economic Project belong to the Transmission Owner whose system to which the Local Economic Project is connected. If the Local Economic Project is connected to two or more Transmission Owners, the responsibility to own and construct the Local Economic Project is split between those Transmission Owners proportionally based on the proportion of the Local Economic Project facilities located in each Transmission Owner's pricing zone. If the Local Economic Project connects a Transmission Owner's system and a system not in MISO, the responsibility for the portion of the project in the MISO footprint belongs to that Transmission Owner. Maintenance responsibilities follow with the ownership obligation. Filing Parties state that this treatment is consistent with the Commission's directives regarding projects with costs allocated to the Transmission Pricing Zone(s) where the facilities are located.[27]

13. Filing Parties assert that the Local Economic Project category and associated cost allocation are just and reasonable. They argue that the new project category provides a clear distinction between reliability-driven projects and economic-driven projects. Further, Filing Parties argue that the inclusion of a local Transmission Pricing Zone benefit-to-cost ratio test ensures that the allocation of costs is roughly commensurate with the benefits received and consistent with the current cost allocation method. Filing Parties also assert that the creation of the Local Economic Project category further supports the goals of Order No. 890[28] as this new category provides clear and distinct

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[25] *Id.*, Tab A: Moser Testimony at 40.

[26] *Id.* at 36.

[27] *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 at P 441).

[28] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on*

criteria to address lower-voltage economic projects that would have normally fallen into the Other Project category.[29]

14. Filing Parties state that MISO commits to a triennial review of its cost allocation and will reassess the proposed cost allocation method after a three-year period or sooner. Filing Parties assert that this review will inform MISO and stakeholders on the effectiveness of the proposed changes. Further, the proposed review period will allow time for the proposed changes to be implemented and evaluated, and set a clear expectation for stakeholders.[30]

B. Market Efficiency Project Revisions

15. Filing Parties propose to measure benefits and allocate Market Efficiency Project costs to Transmission Pricing Zones by using the current Adjusted Production Cost Savings metric and two new proposed benefit metrics—the Avoided Reliability Project Cost Savings metric and the MISO-SPP Settlement Agreement Cost metric. Filing Parties explain that the existing Adjusted Production Cost Savings metric measures savings realized from reduced fuel, variable operations and maintenance expenses, generator start-up, hourly generator no-load, and generating operating reserve costs. Filing Parties state that Adjusted Production Cost Savings can be realized through reductions to both transmission congestion and transmission energy losses. Adjusted Production Cost Savings can also be realized through reductions in operating reserve requirements at both the Transmission Pricing Zone and region level.[31] The Adjusted Production Cost Savings benefits are first allocated to each Cost Allocation Zone by their

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reh'g, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

[29] Tariff Filing at 36-37.

[30] *Id.* at 38.

[31] *Id.* at 13-14. Filing Parties state that Adjusted Production Cost Savings are "estimated by modeling the production cost of the base case and alternative transmission system plans, and comparing each plan to several possible future economic or operating scenarios." *Id.* at 10.

Adjusted Production Cost Savings benefits. Then, the benefits are distributed to each Transmission Pricing Zone within a Cost Allocation Zone[32] based on its load ratio share.

16. Filing Parties explain that the new Avoided Reliability Project Savings metric will measure the savings realized by transmission customers when a Market Efficiency Project eliminates the need to develop one or more future reliability projects.[33] Filing Parties explain that the applicable Market Efficiency Project will be included in the current year MTEP process to determine if, and which, recommended reliability projects for which it would obviate the need. Filing Parties propose that, to be considered an Avoided Reliability Project, the project must be a reliability project that MISO staff recommends that the MISO Board of Directors approve for inclusion in Appendix A of the current MTEP as the preferred solution to address a North American Electric Reliability Corporation (NERC) reliability standard or other localized transmission issue in the current reliability planning cycle.[34] Filing Parties also propose that the avoided reliability project must not be necessary until after the proposed Market Efficiency Project's expected in-service date.[35] Filing Parties state that the benefit amount will be calculated by converting the estimated project cost of the Avoided Reliability Project to a present value of total annualized cost of the first 20 years of project life after the projected in-service date, with a maximum planning horizon of 25 years from the approval year.[36]

17. Filing Parties also propose to add a new MISO-SPP Settlement Agreement Cost metric to assess any changes in annual payments by MISO to SPP pursuant to the MISO-SPP Settlement that could result from the implementation of a Market Efficiency Project.[37] Filing Parties state that this metric will address savings or increased costs

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[32] A Cost Allocation Zone is a zone identified in Attachment WW of the MISO Tariff that is used for allocating the costs of Market Efficiency Projects. MISO, FERC Electric Tariff, Module A, § II.1.C, Definitions-C (62.0.0).

[33] Tariff Filing at 15.

[34] Projects approved by MISO's Board of Directors for inclusion in the MTEP thereafter are referred to as "Appendix A" projects.

[35] Tariff Filing at 15.

[36] *Id.* at 15-16.

[37] The MISO-SPP Settlement Agreement refers to a settlement agreement among Associated Electric Cooperative, Inc. (AECI), Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company, by and through their agent Southern Company Services, Inc. (collectively, Southern Companies), the

resulting from reduced or increased payments pursuant to the MISO-SPP Settlement Agreement by calculating the change in annual payments due from MISO to SPP and the Joint Parties for MISO transfers above the MISO Contract Path Capacity, as defined in the MISO-SPP Settlement Agreement. Filing Parties state that this benefit would be calculated from the in-service date to the first 20 years of the project's life.[38]

18. Filing Parties argue that by including these two new metrics, MISO will be able to take into account broader benefits than under the current single Adjusted Production Cost Savings metric. Filing Parties state that each of the three benefit metrics would allow MISO to measure a specific value provided by a proposed Market Efficiency Project, with each metric having a specific and unique calculation method tied to that value. Filing Parties assert that together, the three benefit metrics will allow MISO to more precisely allocate costs to benefitting loads, assess the magnitude of benefits to beneficiaries, and allocate costs in a manner roughly commensurate with the benefits received.[39]

19. Filing Parties also propose to: (1) lower the minimum voltage threshold to qualify as an Market Efficiency Project from 345 kV to 230 kV; and (2) adopt a more granular cost allocation based on existing and proposed benefit metrics by removing the existing 20 percent postage stamp portion of the Market Efficiency Project cost allocation and

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Tennessee Valley Authority (TVA), Louisville Gas and Electric Company and Kentucky Utilities Company (together, LG&E/KU), PowerSouth Energy Cooperative (PowerSouth), and NRG Energy, Inc. wherein AECI, Southern Companies, TVA, LG&E/KU, and PowerSouth are collectively referred to as the "Joint Parties." Among other things, the MISO-SPP Settlement Agreement provides the terms and conditions under which MISO provides compensation for the use of SPP's and the Joint Parties' transmission systems when MISO's flows on its contract path between the region of its footprint existing prior to Entergy's integration and the region added following Entergy's integration (Contract Path) exceed a certain value. The MISO-SPP Settlement Agreement also provides that payments to SPP and the Joint Parties will be reduced when MISO adds transmission capacity to its Contract Path, and increasing payments when Contract Path capacity is reduced. *Sw. Power Pool, Inc. v. Midcontinent Indep. Transmission Sys. Operator, Inc.*, 154 FERC ¶ 61,021 (2016).

[38] Tariff Filing at 18.

[39] *Id.* at 19.

instead allocate 100 percent of Market Efficiency project costs to the benefiting Transmission Pricing Zones (instead of Cost Allocation Zones).[40]

20. Filing Parties state that lowering the Market Efficiency Project minimum voltage threshold from 345 kV to 230 kV will provide the opportunity for more projects to be considered as Market Efficiency Projects and subject to MISO's Competitive Developer Selection Process that allows developers to compete to build new transmission projects.[41] Filing Parties also explain that lowering the Market Efficiency Project minimum voltage threshold and expanding quantifiable benefits will likely result in more projects qualifying as Market Efficiency Projects, including projects that previously would have qualified only as Baseline Reliability Projects.[42]

21. With respect to their proposal to eliminate the 20 percent MISO-wide postage stamp allocation, Filing Parties explain that this revision is just and reasonable due to the addition of the two benefit metrics, which improve identification of benefits and beneficiaries and allow MISO to assign costs more granularly.[43] To determine what portion of the Market Efficiency Project costs will be allocated to each Transmission Pricing Zone, MISO will first calculate the separate benefit to each relevant zone under each benefit metric (i.e., Adjusted Production Cost Savings, Avoided Reliability Project Savings, and MISO-SPP Settlement Agreement Cost). Then, MISO will allocate 100 percent of the Market Efficiency Project's costs to each benefitting Transmission Pricing Zone based on the sum of its benefits.[44]

22. Filing Parties also assert that the proposed Market Efficiency Project cost allocation method is consistent with Order No. 1000's six cost allocation principles. First, since 100 percent of the costs of a Market Efficiency Project are allocated to each Transmission Pricing Zone where load receives a positive net benefit, Filing Parties argue that this method appropriately allocates costs based on benefits received. Second, only Transmission Pricing Zones that receive net positive benefits receive an allocation of Market Efficiency Project costs, which avoids the involuntary allocation of costs to non-beneficiaries. Third, Filing Parties propose no change to the Market Efficiency Project 1.25-to-1 benefit-to-cost ratio. Fourth, Filing Parties propose to allocate costs solely

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[40] Tariff Filing at 19-20.

[41] *Id.* at 23.

[42] *Id.* at 27.

[43] *Id.* at 21-22.

[44] *Id.*, Tab A: Moser Testimony at 24-25.

within the MISO footprint. Fifth, in developing a transparent method for determining benefits and identifying beneficiaries, the proposed Tariff revisions outline the data that MISO will use, the methodology for summing the benefits, and the allocation of costs. Lastly, Filing Parties assert that MISO will apply the proposed Market Efficiency Project cost allocation method consistently.[45]

C. Immediate Need Reliability Projects

23. Additionally, Filing Parties propose to create a category of transmission projects called Immediate Need Reliability Projects, which will be exempt from the Competitive Developer Selection Process. As proposed, an Immediate Need Reliability Project is a transmission project that: (1) qualifies as both a Market Efficiency Project and a Baseline Reliability Project; and (2) is necessary to be in service within three years to address a reliability need. Filing Parties assert that, without the exception, the Competitive Developer Selection Process will potentially delay eligible projects that would address an urgent reliability need.[46]

24. Filing Parties state that Immediate Need Reliability Projects will be identified through a Baseline Reliability Study, which is used for all other Baseline Reliability Projects and is a well-established, participatory process that will ensure consistency of approach in identifying both the predicate reliability need and the need-by date.[47]

25. Filing Parties state that the Immediate Need Reliability Projects proposal is similar to the short-term/immediate-need reliability exceptions other Regional Transmission Organizations (RTOs) have adopted through filings the Commission accepted as part of their Order No. 1000-compliant competitive selection processes.[48]

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[45] *Id.* at 25-27.

[46] *Id.* at 28.

[47] Tariff Filing at 30. A Baseline Reliability Study is a study MISO performs as part of the MTEP development to determine whether MISO's system is in compliance with applicable national Electric Reliability Organization reliability standards and reliability standards adopted by Regional Entities and applicable to MISO's or Transmission Owners' planning criteria filed with federal, state, or local regulatory authorities, and applicable federal, state and local system planning and operating reliability criteria, the result of which is the identification of Baseline Reliability Projects. MISO Tariff, Module A – Common Tariff Provisions.

[48] *Id.* at 31 (citing *Sw. Power Pool, Inc.,* 144 FERC ¶ 61,059, at PP 197-198 (2013) (finding that "on balance, three years is just and reasonable"), *order on reh'g and*

26. Filing Parties explain that the proposed Immediate Need Reliability Project Tariff revisions largely reflect the five criteria accepted by the Commission for SPP. First, the project must have a need-by date within 36 months.[49] Second, under Filing Parties' proposal, MISO must identify and post an explanation of the reliability violations and system conditions for which there is a time-sensitive need.[50] Third, Filing Parties state that they propose a clear, open, transparent, and non-discriminatory process for identifying Immediate Need Reliability Projects.[51] Fourth, Filing Parties state that the process provides time for stakeholders to comment on the determination of an Immediate Need Reliability Project.[52] Finally, Filing Parties state that MISO will post annually a list of prior years' designations of Immediate Need Reliability Projects.[53]

27. In their filing in Docket No. ER19-1125-000, Filing Parties submit revisions to Appendix B of the MISO TO Agreement to clarify the ownership and construction responsibilities for Immediate Need Reliability Projects. The modifications clarify that the existing ownership and responsibility to construct obligations that apply to Baseline Reliability Projects today will continue to apply to a Baseline Reliability Project that now meets the Immediate Need Reliability Project criteria.[54] Maintenance responsibilities follow with the ownership obligation. Filing Parties claim that this treatment is

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compliance, 149 FERC ¶ 61,048, at P 166 (2014) (stating that "[w]e find that SPP's proposal complies with the Commission's directive in the First Compliance Order to include the five criteria required to maintain a federal right of first refusal for transmission projects needed to address reliability needs in a shortened time frame"); *ISO New England Inc.*, 143 FERC ¶ 61,150, at PP 235-241 (2013) ("[W]e find that, on balance, a three-year threshold for assigning a reliability project to a Participating Transmission Owner is just and reasonable."), *order on reh'g and compliance*, 150 FERC ¶ 61,209 (2015); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at PP 247-255 (2013) (finding that "on balance, three years is just and reasonable"), *order on reh'g and compliance,* 147 FERC ¶ 61,128, at PP 194-202 (2014)).

[49] *Id.* at 32 (citing MISO Tariff, Attachment FF, § VIII.A.3 (*proposed*)).

[50] *Id.* (citing MISO Tariff, Attachment FF, § VIII.A.3.1(a) (*proposed*)).

[51] *Id.* (citing MISO Tariff, Attachment FF, § VIII.A.3.1(b) (*proposed*)).

[52] *Id.*

[53] *Id.* (citing MISO Tariff, Attachment FF, § VIII.A.3.1(c) (*proposed*))

[54] *Id.* at 33.

consistent with the Commission's directives regarding projects with costs allocated to the pricing zones where the facilities are located.[55]

III. Notice of Filings and Responsive Pleadings

28. Notice of the filings in Docket Nos. ER19-1124-000 and ER19-1125-000 was published in the *Federal Register*, 84 Fed. Reg. 7359 (2019), with interventions and protests due on March 18, 2019. On March 1, 2019, the Office of the Secretary issued errata notices in Docket Nos. ER19-1124-000 and ER19-1125-000 extending the comment deadline to March 27, 2019.

29. The appendix to this order lists the entities that filed notices of intervention, motions to intervene, protests, comments, and answers. The entity abbreviations listed in the appendix will be used throughout this order.

IV. Discussion

A. Procedural Matters

30. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they sought intervention. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2018), we grant the late-filed motions to intervene given the entities' interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

31. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the answers filed by MISO South Regulators, Filing Parties, Protesting TOs, LS Power, Michigan Commission, and Industrial Customers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. General Comments

32. Entergy, OMS, and Xcel support Filing Parties' proposal and ask the Commission to approve the proposed tariff revisions without modification. They each argue that the

[55] *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 at P 441).

package of revisions reflect a reasonable compromise that they are able to support as a reasonable compromise.[56]

33. Additionally, some entities that submitted protests nonetheless expressed some support for the proposal. Alliant states that it generally supports the proposed Tariff revisions and believes that the proposal is a reasonable compromise proposal based on the various positions of stakeholders. MISO South Regulators generally support the proposed Tariff revisions. MISO South Regulators assert that the filing proposes a just and reasonable rate and is the result of a comprehensive stakeholder process and compromise.[57] AWEA/Clean Grid state that they offer general support for the proposal, which is the result of several years of stakeholder processes. AWEA/Clean Grid also state that they support the direction of Filing Parties' proposal to allow more economic upgrades to qualify for regional cost sharing. [58]

2. Local Economic Projects Category

a. Comments and Protests

34. Xcel asserts that Filing Parties' cost allocation proposal for Market Efficiency Projects and Local Economic Projects is consistent with Order No. 1000, including that the proposal allocates costs "roughly commensurate" with benefits by allocating Market Efficiency Project and Local Economic Project costs to identified beneficiaries based on three quantifiable benefit metrics. Xcel also supports formalizing the approval path for economic projects that do not meet the voltage or cost thresholds for Market Efficiency Projects by creating the Local Economic Project category. Further, Xcel submits that Filing Parties propose a just and reasonable local zone test for Local Economic Projects, which is consistent with MISO's current process for approving economic Other Projects that do not meet the Market Efficiency Project thresholds. Xcel also asserts that, while Local Economic Projects are an important addition to address local needs, these projects generally do not provide wide-reaching regional benefits. Xcel states that although it is possible that surrounding TOs may receive some ancillary benefits from Local Economic Projects, the local 1.25-to-1 benefit-to-cost ratio ensures the loads receiving the costs will view the project as cost effective.[59]

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[56] Entergy Comments at 1-2; OMS Comments at 6-7; Xcel Comments at 5-6.

[57] MISO South Regulators Comments at 2.

[58] AWEA/Clean Grid Comments and Limited Protest at 2.

[59] Xcel Comments at 16.

35. MISO South Regulators support the Local Economic Project proposal and state that the proposal correctly distinguishes between transmission upgrades conducted at lower voltages that provide localized benefits and higher voltages that generally provide regional benefits.[60] Similarly, OMS supports Filing Parties' proposal to create a new category of Local Economic Projects and its commitment to conduct a triennial review.[61] MISO South Regulators argue that the Commission should reject requests to change the proposed cost allocation as precluded by the *NRG* decision.[62] More specifically, they argue that, under FPA section 205, the Commission may not suggest modifications that result in an entirely different rate design than what the utility filed, and that changes the proposed Local Economic Project cost allocation would constitute a "new rate scheme."[63]

36. Conversely, several protestors oppose the proposed Local Economic Project cost allocation method as inconsistent with the cost causation principle.[64] LS Power, Industrial Customers, and the Michigan Commission argue that the misalignment of benefits with allocation of costs, in which regional benefits are identified but costs are only allocated locally, could prevent highly beneficial economic projects from being implemented.[65] Industrial Customers contend that this misalignment impedes construction of sub-230 kV economic projects by "potentially engendering stakeholder opposition" through poor cost allocation.[66] WEC Utilities ask the Commission to require MISO to instead allocate Local Economic Project costs in accordance with the results of the benefit analysis used to justify the project in the transmission planning process.[67]

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[60] MISO South Regulators Comments at 5.

[61] OMS Comments at 11-12.

[62] MISO South Regulators Comments at 5 (citing *NRG Power Mktg, LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017) (*NRG*)).

[63] *Id.* at 9.

[64] WEC Utilities Comments at 1; LS Power Protest at 21; Industrial Customers Protest at 9.

[65] LS Power Protest at 25 (citing Order No. 1000, 136 FERC ¶ 61,051 at P 499); Industrial Customers Protest at 9; Michigan Commission Protest at 3, 5-10.

[66] Industrial Customers Protest at 9.

[67] WEC Utilities Comments at 5.

37. Several protestors further argue that Filing Parties provide no evidence that a Local Economic Project will benefit only the Transmission Pricing Zone where it is located.[68] Alliant, LS Power, and Industrial Customers contend that it is likely that an economically driven transmission project will provide benefits to Transmission Pricing Zones outside of the Local Economic Project's Transmission Pricing Zone.[69] LS Power and WEC Utilities state that MISO presented stakeholders with examples of the Adjusted Production Cost metric applied to economic projects at or below 230 kV and all four examples provided Adjusted Production Cost benefits to more than one Transmission Pricing Zone, including one 161 kV line that provided a 6.79-to-1 benefit-to-cost ratio to the MISO footprint and a 1.53-to-1 benefit-to-cost ratio to the local Transmission Pricing Zone.[70] LS Power states that this demonstrates that such lower-voltage projects should not be classified as local projects.[71] WEC Utilities assert that if Local Economic Projects are truly "local in nature," then the local Transmission Pricing Zone benefits will mirror the results of the initial three benefit metric test used to justify the project in the transmission planning process, and further screening of local economic benefits to the local Transmission Pricing Zone would be redundant.[72] Alliant states that it supports using measurable benefits for the cost-benefits analysis in evaluating Local Economic Projects.[73]

38. AWEA/Clean Grid contend that MISO's Local Economic Project proposal creates a distinction in the cost allocation treatment of certain voltage classes that will provide more incentive for transmission owners to identify lower-voltage solutions than higher voltage solutions.[74] Similarly, LS Power and Industrial Customers argue that

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[68] LS Power Protest at 24; Michigan Commission Protest at 7-8.

[69] Alliant Comments at 5; LS Power Protest at 24; Industrial Customers Protest at 14.

[70] LS Power Protest at 8; WEC Utilities Comments at 3-4.

[71] LS Power Protest at 7-8.

[72] WEC Utilities Comments at 5.

[73] Alliant Comments at 4.

[74] AWEA/Clean Grid Comments and Limited Protest at 8-9.

distinguishing Local Economic Projects from Market Efficiency Projects precludes lower-voltage projects from undergoing a competitive bidding process.[75]

39. WEC Utilities dispute the claim that Local Economic Projects are equivalent to the current economic Other Project category. WEC Utilities argue that there is no obligation within the existing MISO TO Agreement for a Transmission Owner to construct an Other Project; that is, a local transmission owner and its customers can decide, despite benefits to themselves, not to undertake the project because other transmission owners benefit and instead allow all beneficiaries to undertake the project as a participant-funded transmission project that allocates the costs based on a negotiated agreement. WEC Utilities contend that, in contrast, MISO's Local Economic Project proposal places an *obligation* on Transmission Owners to both construct and absorb the cost of approved Local Economic Projects, despite the fact that others might benefit.[76] WEC Utilities state that this is distinct from the current treatment of economic Other Projects, under which Transmission Owners are not required to build such projects.[77]

40. Multiple protestors take issue with the requirement that a Local Economic Project must have at least a 1.25-to-1 benefit-to-cost ratio for (1) the entire MISO region, *and* (2) the Transmission Pricing Zone in which the proposed Local Economic Project is located (which some refer to as a "double hurdle"). Generator Group, Industrial Customers, the Michigan Commission, AWEA/Clean Grid argue that MISO has not justified using the benefit-to-cost test at both the regional and Transmission Pricing Zone levels and that this dual requirement will prevent the evaluation and approval of Local Economic Projects.[78] AWEA/Clean Grid point to recent MISO examples of lower-voltage economic projects with significantly higher regional benefit-to-cost ratios than local benefit-to-cost ratios.[79] In addition, they contend that the double hurdle is contrary to Order No. 1000 Cost Allocation Principle 3, which states that benefit-to-cost ratios must not exceed 1.25-to-1

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[75] LS Power Protest at 25; Industrial Customers Protest at 15.

[76] WEC Utilities Comments at 7.

[77] *Id*.

[78] Generator Group Protest at 6; Industrial Customers Protest at 15; Michigan Commission Protest at 9-10; AWEA/Clean Grid Comments and Limited Protest at 3-4.

[79] AWEA/Clean Grid Comments and Limited Protest at 3, 10-11.

unless it is justified and approved by the Commission.[80] Generator Group states that the benefit-to-cost ratio metric should instead be 1.0.[81]

41. Generator Group states that Filing Parties propose to measure benefits over the first 20 years of the life of a proposed transmission facility, as is done with its current Market Efficiency Project assessment, is unsupported and inconsistent with much longer actual life of transmission facilities.[82]

42. Generator Group opposes Filing Parties' proposal for excluding certain mixed voltage facilities from Market Efficiency Project and local Economic Project eligibility. Generator Group states there is no basis for Filing Parties' proposal to allow a Local Efficiency Project at 100 kV or higher so long as no more than 50 percent of the project cost includes facilities rated below 100 kV. Generator Group states that Filing Parties do not justify the 50 percent threshold to determine how projects are categorized.[83]

43. Michigan Commission argues that in the NIPSCO Orders,[84] the Commission agreed with complainants that projects 100 kV and above can provide interregional benefits. Michigan Commission contends that if projects at 100 kV can provide benefits to another RTO, then one can assume they could provide benefits to other Transmission Pricing Zones within MISO.[85]

b. <u>Answers</u>

44. Filing Parties state that the protests ignore the broad balancing of interests that the proposal reflects, fail to show that the proposal is unjust and unreasonable, and request

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[80] *Id.* 11-12. *See also* Protesting TOs Protest at 18-20.

[81] Generator Group Protest at 7.

[82] *Id.* at 11-12.

[83] *Id.* at 13-14.

[84] NIPSCO Complaint Order, 155 FERC ¶ 61,058 at P 129; NIPSCO Compliance Order, 158 FERC ¶ 61,049 at PP 50-51.

[85] Michigan Protest at 8-9 (citing NIPSCO Complaint Order, 155 FERC ¶ 61,058 at P 131).

more than "minor" modifications, which the Commission cannot require pursuant to its FPA section 205 authority.[86]

45. MISO South Regulators contend that the Commission should reject arguments that the proposed Local Economic Project cost allocation is not just and reasonable. They argue that Filing Parties' proposal will result in Local Economic Project costs being allocated in a more precise manner, even beyond "roughly commensurate," to benefitting customers in the local zone(s) in which the Local Economic Project is located, as the Local Economic Project proposal is intended to deliver local generation to proximate load.[87] In response to protestors that state their preference for other cost allocations for Local Economic Projects, MISO South Regulators point out that, while there may be more than one just and reasonable cost allocation or rate, the Commission may not require a different just and reasonable rate instead of the one proposed by the utility.[88] MISO South Regulators also ask the Commission to defer to the Filing Parties' proposal, which was thoroughly vetted and approved by a majority of MISO stakeholders through the stakeholder process.[89]

46. In response to the various arguments against the proposed benefit-to-cost ratio, MISO South Regulators assert that Order No. 1000 dictates the 1.25-to-1 benefit-to-cost ratio that Filing Parties propose here and that the "double hurdle" requirement ensures that costs are not allocated to a local zone where MISO's models do not project adequate benefits. Similarly, Filing Parties argue that the second hurdle for Local Economic Projects ensures that the zone that pays the costs will also receive benefits in excess of those costs.[90] MISO South Regulators also assert that the proposed 20-year benefit

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[86] Filing Parties Answer at 5, 9.

[87] MISO South Regulators Answer at 11 (citing LS Power Protest at 20-25; AWEA/Clean Grid Protest at 7-9); *see also* objection of Missouri Commission, Michigan Commission, Indiana Commission, Wisconsin Commission, Kentucky Commission (noted in OMS Comments at 2 n.3, 11 n.38).

[88] MISO South Regulators Answer at 12.

[89] *Id.* (citing *Pub. Serv. Comm'n of Wisconsin v. FERC*, 545 F.3d 1058, 1062-63 (D.C. Cir. 2008); *Midwest Indep. Transmission Sys. Operator, Inc.,* 116 FERC ¶ 61,292, P 47 (2006); *New England Power Pool*, 105 FERC ¶ 61,300, P 34 (2003); *Policy Statement Regarding Regional Transmission Groups*, FERC Stats. & Regs. ¶ 30,976, 30,872 (1993) (cross-referenced at 64 FERC ¶ 61,138)).

[90] Filing Parties Answer at 24.

assessment is consistent with MISO's currently existing benefit assessment time periods and the maximum planning horizon under MTEP.[91]

47. In response to MISO South Regulators, the Michigan Commission argues that, while MISO South Regulators rely on *NRG* to argue that the Commission may not require a major change to a utility's filed proposal that would "constitute an 'entirely different rate design,'"[92] the Michigan Commission's preferred Local Economic Project cost allocation would assign benefits and costs the same way that MISO is proposing to assign benefits and costs to Market Efficiency Projects. It therefore argues that such a proposal could not be considered an entirely different rate design.[93]

48. In response to arguments that the Local Economic Project cost allocation disregards the cost causation principle, MISO South Regulators contend that "[i]f MISO's current Tariff cost allocation for 'Other' economic projects is just and reasonable, then this proposal, [which] provides for greater granularity (at the Transmission Pricing Zone level), easily satisfies the roughly commensurate cost allocation standard and is just and reasonable."[94]

49. Filing Parties also disagree with the argument made by AWEA/Clean Grid Alliance and Protesting TOs that argue that the proposed Local Economic Project cost-to-benefit ratios violate Order No. 1000's cost allocation principle 3. More specifically, Filing Parties argue that this principle, which dictates that a benefit-to-cost ratio threshold cannot exceed 1.25-to-1, does not apply to projects where the costs are locally allocated.[95] Filing Parties also state that one of the examples cited by Protesting TOs and AWEA/Clean Grid undercuts their contention that the regional benefit-to-cost ratio will always be higher than the local benefit-to-cost ratio, as one project cited showed a

[91] MISO South Regulators Answer at 13.

[92] Michigan Commission Answer at 3 (citing MISO South Regulators Answer at 14-15 (quoting *NRG*, 862 F.3d at 115)).

[93] *Id.* at 4.

[94] MISO South Regulators Answer at 5.

[95] Filing Parties Answer at 25 n.89 (citing Order No. 1000, 136 FERC ¶ 61,051 at PP 586-587).

regional benefit-to-cost ratio that is significantly lower than the benefit-to-cost ratio for the local Transmission Pricing Zone.[96]

50. Filing Parties state that MISO will continue to have the Other Projects category, and that project category is useful as a tool to move forward with beneficial projects that might not otherwise fit into a defined project category. They contend that the new Local Economic Project category will add clarity by defining the identification, evaluation, and cost allocation for economic projects that do not meet the Market Efficiency Project criteria and are at or above 100 kV but below 230 kV.[97] Filing Parties state that WEC Utilities' statement that there is no obligation to construct an Other Project is in error because the MISO TO Agreement, Appendix B, Section VI imposes construction obligations for all projects approved in the MTEP.[98] Filing Parties also state that if the Commission rejects the proposal, would-be Local Economic Projects would still be eligible for approval as economic Other Projects and the costs of these projects will continue under the existing framework. Filing Parties state that one-off demonstrations that a particular project may provide some benefits beyond the local level is not sufficient to show that the proposed cost allocation is not just and reasonable. Filing Parties dispute Michigan Commission's assertion that the NIPSCO Orders demonstrate that the costs of projects down to 100 kV should be allocated across the MISO footprint, stating that the issue in the NIPSCO proceeding was getting lower-voltage interregional projects approved, not the appropriate cost allocation for such projects.[99]

51. In response to Filing Parties' continued support for the proposed Local Economic Project category, Protesting TOs argue that Filing Parties ignore the fact that, if the Commission ordered the Market Efficiency Project voltage threshold to be lowered to 100 kV, the Local Economic Project category becomes a non-issue. According to Protesting TOs, the proposed Local Economic Project category will ensure only that those that pay for a transmission project will benefit, but will not ensure that all beneficiaries will pay. Protesting TOs explain that Filing Parties' overly narrow inclusion criteria will orphan projects whose beneficiaries do not align with the Filing Parties' arbitrary geographically based cost allocation method.[100]

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[96] *Id*. at 26.

[97] *Id*. at 24-25.

[98] *Id*. at 25 n.87.

[99] *Id*. at 15.

[100] Protesting TOs Answer at 7.

52. Protesting TOs specify that they provided representative examples of transmission projects below 230 kV and above 100 kV for which MISO's own analysis identified substantial regional benefits, but would be arbitrarily excluded from the Market Efficiency Project category and regional cost sharing because of voltage level.[101] According to Protesting TOs, the Commission should reject Filing Parties' proposal for failing to acknowledge the potential regional benefits of lower-voltage projects and, thus, failure to allocate costs in a just and reasonable manner.[102]

53. Finally, Protesting TOs argue that the double hurdle created by the 1.25-to-1 regional and local benefit-to-cost ratio will block Local Economic Projects from a clear path to execution at any benefit-to-cost ratio. Protesting TOs point out that if a lower-voltage project happens to have enough regional and local economic benefits, the double hurdle ensures local cost allocation rather than regional cost allocation and, therefore, also ensures a quantifiable amount of free-riders, in contravention of Order No. 1000's goals and cost allocation principles. Protesting TOs contend that it is inconsistent of the Filing Parties to indicate that the benefit-to-cost ratio is still just 1.25-to-1 when the Applicants propose an increased number of tests, all of which must be 1.25-to-1 or greater.[103]

54. LS Power states that the creation of the Local Economic Project category is not just and reasonable and is discriminatory. LS Power claims that the Local Economic Project category has no ascertainable regional purpose, directly harms ratepayers, and benefits only incumbent transmission owners. Furthermore, it states that there is no legitimate basis for treating regionally economically beneficial projects above 230 kV differently than similar projects below 230 kV.[104] Regarding the claims of Filing Parties that previous Court and Commission precedent clearly recognizes that lower-voltage projects are expected to have more localized benefits, LS Power states that the Courts and Commission were determining whether it is just or reasonable to allocate some or all of a category of projects to an entire region, and were distinguishing between projects that provide benefits to the entire region to those that do not.[105] LS Power disputes MISO South Regulators' assertion that since the cost allocation method for economic Other Projects is just and reasonable, the Local Economic Project cost allocation must also be

[101] *Id.* at 4 (citing Protesting TOs Protest at 12-13).

[102] *Id.*

[103] *Id.* at 7.

[104] LS Power Answer at 4-5.

[105] *Id.* at 7-8.

just and reasonable.[106] LS Power states that Other Projects is a catch-all category of projects that do not fit any other category of projects, but the proposed Local Economic Project category would evaluate economically beneficial projects between 100 kV and 230 kV using the same benefit metrics and 1.25-to-1 benefit-to-cost ratio as Market Efficiency Projects, and therefore, the Local Economic Projects are not analogous to Other Projects.[107] LS Power states that the exclusively local cost allocation is unjust and unreasonable when the project is required to have regional benefits to move forward, no matter if the project is above or below 230 kV.[108]

55. Industrial Customers state that Filing Parties fail to provide concrete evidence to demonstrate that their proposed cost allocation reasonably allocates costs to those that benefit.[109] Industrial Customers refer to their original protest, stating that Filing Parties' own analyses reveal significant discrepancies between the cost allocation of economic projects under Filing Parties' proposal and the actual distribution of project benefits.[110] Industrial Customers state that the cost allocation of sub-230 kV projects should be commensurate with the distribution of project benefits across pricing zones, which would also be consistent with the cost allocation principles articulated in the NIPSCO Orders.[111] Further, Industrial Customers state that the 1.25-to-1 benefit-to-cost ratio threshold is intended to provide some assurance that customers in the MISO footprint receive positive benefits, but that the application of this threshold does not justify Filing Parties' proposal to allocate sub-230 kV project costs entirely to the Transmission Pricing Zone where the project is located.[112]

c. Commission Determination

56. We find that Filing Parties have not demonstrated that their cost allocation method for Local Economic Projects is just and reasonable. In particular, we find the proposed Local Economic Project benefits test, which requires *both* a regional benefit-to-cost ratio

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[106] *Id.* (citing MISO South Regulators at 4, 7).

[107] *Id.* at 11.

[108] *Id.* at 12.

[109] Industrial Customers Answer at 6.

[110] *Id.*

[111] *Id.* at 10-11.

[112] *Id.* at 11-12.

test of 1.25-to-1 or greater *and* a local benefit-to-cost ratio test of 1.25-to-1 or greater in each Transmission Pricing Zone in which the Local Economic Project is located is inconsistent with the cost causation principle. For this reason, we reject the MISO Regional Filings.

57. The cost causation principle requires that "all approved rates reflect to some degree the costs actually caused by the customer [that] must pay them."[113] The D.C Circuit has explained that it evaluates compliance with the cost causation principle by "comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party."[114]

58. Here, while Filing Parties have proposed to measure Local Economic Project benefits on a zonal basis using the same three metrics, and to require the same minimum regional 1.25-to-1 benefit-to-cost ratio that MISO would require for Market Efficiency Projects, they also propose to allocate 100 percent of these projects' costs entirely to the Transmission Pricing Zone(s) where the project(s) are located, rather than to the all the Transmission Pricing Zones within MISO for which it has identified benefits. To justify this proposed cost allocation, Filing Parties propose an additional 1.25-to-1 benefit-to-cost ratio test for each Transmission Pricing Zone where a Local Economic Project is located.[115] In particular, Filing Parties state that "the inclusion of a local zone benefit-to-cost ratio test ensures that the allocation of costs is roughly commensurate with the benefits received."[116] We disagree.

59. The phrase "roughly commensurate" alludes to the U.S. Court of Appeals for the Seventh Circuit (Seventh Circuit) decision in *Illinois Commerce Commission v. Federal Energy Regulatory Commission*, where the Seventh Circuit remanded a Commission decision approving cost allocation for certain transmission lines among all members of PJM in proportion to each utility's electricity sales rather than calculating the benefits each utility would accrue more precisely.[117] In response to arguments about the difficulty of measuring benefits, the Seventh Circuit explained that it is permissible to allocate costs if the Commission "has an articulable and plausible reason to believe that the benefits are

[113] *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992).

[114] *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004).

[115] Tariff Filing at 13.

[116] *Id.* at 36-37.

[117] 576 F.3d 470 (D.C. Cir. 2009) (*Illinois Commission v. FERC*).

at least roughly commensurate with" the assigned costs.[118] However, the Commission is "not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits or benefits that are trivial in relation to the costs sought to be shifted to its members."[119]

60. Subsequent decisions have further informed how the Commission should evaluate methods to allocate a transmission project's costs. Recently, in *Old Dominion Electric Cooperative v. Federal Energy Regulatory Commission*,[120] the D.C. Circuit remanded Commission decisions prohibiting cost sharing for a project included in PJM's regional plan. The D.C. Circuit noted that the Commission had justified prohibiting regional cost sharing in the underlying orders because, despite the fact that the project in question produced "significant regional benefits," the project was only included in the regional plan to satisfy an individual utility's planning criteria.[121] The D.C. Circuit remanded the Commission's decision, finding that "[g]iven the significant regional benefits of high-voltage transmission lines, FERC's decision to approve the amendment was arbitrary" because it "denies cost sharing for *all* projects included in the Regional Plan" among those that benefit from such projects.[122]

61. The D.C. Circuit concluded that the Commission's decisions involved "a wholesale departure from the cost-causation principle" and that the Commission "did not attempt to justify . . . a lawful departure" from this principle.[123] It further stated that the Commission's reasoning would replace a cost allocation formula "*about which FERC has expressed no concerns* with another one that is less accurate overall, as well as grossly inaccurate with respect to high-voltage projects, *in return for no countervailing regulatory benefit*."[124] The D.C. Circuit went on to say that the cost-causation principle, from which the Commission had departed "prevents regionally beneficial projects from

[118] *Id.* at 477.

[119] *Illinois Commission v. FERC*, 576 F.3d at 476.

[120] 898 F.3d 1254 (D.C. Cir. 2018) (*ODEC v. FERC*).

[121] *See id.* at 1261.

[122] *Id.*

[123] *Id.*

[124] *Id.* at 1262 (emphasis in original).

being arbitrarily excluded from cost sharing—a necessary corollary to ensuring that the costs of such projects are allocated commensurate with their benefits."[125]

62. In this case, Filing Parties do not contend that they are unable to calculate the distribution of benefits for Local Economic Projects with the same granularity as Market Efficiency Projects. Instead, Filing Parties' proposal suggests the opposite conclusion—that, if MISO implements the proposed benefits metrics, it will be able to more precisely calculate the distribution of benefits. In fact, Filing Parties state that their proposal to use two new benefit metrics will "improve the alignment of costs and benefits by further identifying benefits and beneficiaries, allowing for a more granular allocation of costs."[126] Thus, every time MISO approves a Local Economic Project in its MTEP, it will first identify all benefitting zones in the same manner it does for Market Efficiency Projects.

63. Consequently, we find that Filing Parties' proposed Local Economic Project cost allocation is at odds with its simultaneous proposal to improve the project benefit metrics.[127] That is, Filing Parties have proposed metrics that will identify regional benefits for Local Economic Projects, but, for the purpose of imposing its preferred cost allocation method, Filing Parties will ignore the results of its regional benefit metrics analysis in order to allocate the costs only to the Transmission Pricing Zone(s) where the project is located. This combination of elements within the proposal therefore is inconsistent with the cost-causation principle.

64. Additionally, the fact that Local Economic Projects are lower-voltage transmission facilities does not justify any deviation from the cost causation principle here. While the transmission projects in question in *ODEC v. FERC* were high voltage facilities, and thus assumed to produce regional benefits, under Filing Parties' proposal, a project could not qualify as a Local Economic Project if MISO were unable to calculate a region-wide 1.25-to-1 benefit-to-cost ratio. For these reasons, we find that Filing Parties' proposed cost allocation for Local Economic Projects is unjust and unreasonable.

65. We also disagree with Filing Parties that their proposal is just and reasonable because the current Tariff allocates the cost of economic Other Projects in the same way that Filing Parties propose to allocate costs for Local Economic Projects. We find instead that the existing economic Other Project category differs from proposed Local Economic Project category in a significant respect. Specifically, Filing Parties propose to make

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[125] *Id.*

[126] Tariff Filing at 22.

[127] *Id.* at 34.

Local Economic Projects part of a top-down transmission planning process,[128] and there is no limitation on which entities can propose a Local Economic Project.[129] In contrast, the existing economic Other Project category appears to be part of a bottom-up process,[130] and Filing Parties explain that "Other [P]rojects are proposed by the relevant Transmission Owner."[131] This means that, under the existing process for economic Other Projects, the Transmission Owner that proposes the project would do so with the knowledge that it will be responsible for paying the project's costs and thus, in practice, is the one that voluntarily decides whether to pay for an economic Other Project even if other Transmission Pricing Zones will also benefit. Under Filing Parties' proposal, an entity other than the Transmission Owner that will be allocated 100 percent of the costs can propose a Local Economic Project and, if that project is included in the MTEP, the obligation to construct such a project that is outlined in the MISO TO Agreement will be triggered. This means that, in contrast to the existing economic Other Project category, a Transmission Owner that may otherwise be unwilling to fund a Local Economic Project may be forced to construct and pay for that project, while insulating other entities that derive demonstrable benefits from such costs.

66. Filing Parties presented the proposal as a comprehensive package of reforms. Accordingly, because we find the proposed cost allocation for Local Economic Projects to be unjust and unreasonable, we must reject Filing Parties' filing as a whole.

67. Nevertheless, we recognize that Filing Parties' proposal includes compromises resulting from a three-year discussion among diverse stakeholders with myriad competing interests. We also appreciate that many other aspects of Filing Parties' proposal, which we address further below, could improve the MTEP.[132] We encourage

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[128] *Id.* at 24-25. The top-down elements of MISO's transmission planning process "seek transmission solutions to more cost-effectively address multiple transmission needs rather than developing individual solutions to each discrete need." *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 at P 488.

[129] Tariff Filing, App. D. 11 (". . . WPPI Energy had indicated that the limitation on which entities could propose a [Local Economic Project] was unnecessarily limiting. MISO removed the reference").

[130] The purpose of the bottom-up elements of MISO's transmission planning process are to "assess[ ] projects from Transmission Owners to meet local needs." *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 at P 78.

[131] Tariff Filing, Tab A: Moser Testimony at 8.

[132] In response to requests that the Commission direct MISO to changes its proposed Local Economic Cost allocation to better reflect the distribution of projected

the Filing Parties to consider whether the proposal could be modified to address the cost causation issue discussed above, while retaining the benefits of other aspects of the proposal. If Filing Parties were to submit another such proposal, the Commission will analyze that proposal based on the record of that proceeding.

3. Other Proposed Changes

68. Filing Parties have submitted their filing as a "comprehensive package" of reforms, and, as a result, our determination that the proposed Local Economic Project cost allocation method is unjust and unreasonable necessitates our rejection of the entire filing. Nevertheless, to provide additional guidance to Filing Parties if they choose to resubmit any aspect of their proposal, we address some of the other major aspects of their proposal below. In particular, although we reject the filing as a whole, we do not find the aspects of the filing discussed below to be unjust and unreasonable. We thus address the comments regarding these components of the proposal, to the extent this discussion might assist the Filing Parties in considering a future proposal. We note, however, that while this order provides guidance on aspects of the proposal with which we did not have concerns in the context of the current filing, pursuant to FPA section 205, Filing Parties would still have to demonstrate that any future proposal is just and reasonable.

69. Furthermore, while we address many of the comments submitted in this proceeding below, we recognize that we do not address all of the comments and do not address several requests for clarification about specific aspects of Filing Parties' proposals. Nevertheless, we encourage Filing Parties to consider all the comments submitted in this proceeding as they work on any possible future filing.

a. Comments and Protests

i. Cost Allocation Zones and Transmission Pricing Zones

70. OMS supports the proposed changes to the Market Efficiency Project cost allocation to allocate 100 percent of the costs to Transmission Pricing Zones, which, it argues provides "for better alignment and costs and benefits and the more granular

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benefits, we agree with MISO South Regulators that *NRG* prohibits the Commission from requiring such a change pursuant to FPA section 205. We also note that the proposal represents a "comprehensive package" and reflects "input from . . . stakeholders, and the compromises established through the give-and-take of the stakeholder process." Tariff Filing at 5 & 11.

assignment of costs."[133] OMS also argues that this proposal complies with the Order No. 1000 regional cost allocation principles.[134]

71. Industrial Customers argue that the proposed Adjusted Production Cost Savings metric fails to align the allocation of economic project costs with the distribution of project benefits within each Cost Allocation Zone.[135] Industrial Customers argue that Filing Parties should instead impose a more granular cost allocation and allocate costs associated with Adjusted Production Cost Savings each Transmission Pricing Zone receives rather than allocating to Cost Allocation Zones and then sub-allocating to Transmission Pricing Zone based on a load ratio share basis.[136] Industrial Customers assert that Transmission Pricing Zones within a given Cost Allocation Zone do not typically benefit equally on a per unit basis from a given Market Efficiency Project.[137]

72. Protesting TOs contend that, under Filing Parties' proposal, there is a disconnect between calculating Adjusted Production Cost Savings benefits according to Transmission Pricings Zones within Cost Allocation Zones and then using the load ratio share to allocate costs. Protesting TOs state that, because two unrelated cost allocation methods are used, certain Transmission Pricing Zones and their customers may be forced to pay for the benefits received by others. They state that this proposed method of allocating by load ratio share does not comply with Order No. 1000's cost allocation principles, which requires that costs must be allocated in a way that is roughly commensurate with benefits.[138] Further, Protesting TOs state that the Filing Parties' proposed cost allocation method results in unduly discriminatory treatment among Transmission Pricing Zones and Cost Allocation Zones, and provides no protection against scenarios where customers in a pricing zone who receive no benefit are still allocated costs. However, Protesting TOs state that revising the proposed cost allocation method to both identify beneficiaries and allocate costs based on Adjusted Production Cost Savings using Transmission Pricing Zones would eliminate this problem and ensure

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[133] OMS Comments at 9.

[134] *Id.* at 9-10.

[135] Industrial Customers Comments at 3-4.

[136] *Id.*

[137] *Id.*

[138] Protesting TOs Comments at 23-26.

that costs are allocated in a manner roughly commensurate with benefits.[139] Lastly, Protesting TOs argue that MISO's prior use of the Adjusted Production Cost Savings metric using load ratio share is not sufficient to show that the continued use of the Adjusted Production Cost Savings metric using load ratio share for cost allocation purposes is just and reasonable in the context of the Filing Parties' new cost allocation method.[140]

ii. Benefit Metrics

73. AWEA/Clean Grid, Entergy, OMS, MISO South Regulators, and Xcel generally support the addition of the Avoided Reliability Project Savings metric and the MISO-SPP Settlement Agreement Costs metric. AWEA/Clean Grid and OMS support the inclusion of the two additional benefits metrics on the basis that they assign costs commensurate with benefits.[141] MISO South Regulators state that they support the two benefit metrics because they are real benefits, can be measured with accuracy, and are based on reasonable, practical assumptions that have broad stakeholder support.[142] Likewise, OMS argues that the two metrics are the result of an extensive stakeholder process, refine MISO's pre-existing framework, and create a greater likelihood of identifying and approving beneficial economic projects.[143] Entergy and Xcel note that they support the MISO-SPP Settlement Agreement Cost metric.[144] Xcel states that it supports the addition of the Avoided Reliability Project Cost Savings metric because it calculates benefits for avoided reliability costs that are real and not speculative.[145] Xcel states that the additional benefit metrics can both help justify additional economic projects and more

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[139] *Id.* at 30-32.

[140] *Id.* at 32-33.

[141] AWEA/Clean Grid Comments and Limited Protest at 3; OMS Comments at 7-8.

[142] MISO South Regulators Comments at 3.

[143] OMS Comments at 7-8.

[144] Entergy Comments at 15-16; Xcel Comments at 16-17.

[145] Xcel Comments at 17.

clearly identify the beneficiaries of these regionally beneficial larger backbone transmission projects.[146]

74. Generator Group states that the filing lacks appropriate benefits metrics and that MISO fails to demonstrate measurable benefits from its proposed MISO-SPP Settlement Agreement Costs and Avoided Reliability Project Savings benefits categories.[147] Furthermore, Generator Group states that MISO unreasonably fails to adopt sixteen other benefits metrics proposed during the stakeholder process.[148] Alliant and MISO South Regulators argue that MISO should provide for the future incorporation of additional benefit metrics.[149]

iii. <u>Elimination of Postage Stamp Cost Allocation</u>

75. Entergy, Alliant, and Xcel support the removal of the existing postage stamp cost allocation for 20 percent of the costs of Market Efficiency Projects in light of the proposed benefit metrics.[150] Entergy strongly supports Filing Parties' proposal to remove the 20 percent postage stamp cost allocation since the three proposed metrics adequately capture the beneficiaries of a project, and that a regional cost allocation is no longer needed.[151] Xcel states that, while they believe MISO's current cost allocation method is just and reasonable, Xcel supports Filing Parties' proposal to remove the 20 percent postage stamp allocation and allocate Market Efficiency Projects costs on the sum of three benefit metrics. Xcel states that it now believes that it is appropriate to remove the postage stamp allocation because the MISO footprint has expanded with the integration of MISO South and because the minimum voltage threshold for Market Efficiency Projects is being lowered to 230 kV.[152]

76. AWEA/Clean Grid state that they do not support MISO's complete removal of the postage stamp aspect of the cost allocation method for Market Efficiency Projects.

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[146] *Id.*

[147] Generator Group Protest at 11. *See also* AWEA/Clean Grid Protest at 6.

[148] Generator Group Protest at 4, 11.

[149] Alliant Comments at 3-4; MISO South Regulators Comments at 11.

[150] Entergy Comments at 5; Alliant Comments at 3; Xcel Comments at 16.

[151] Entergy Comments at 6.

[152] Xcel Comments at 17.

AWEA/Clean Grid also state that using a postage stamp approach to allocate some portion of the costs of regionally beneficial projects is appropriate to account for benefits that are not easily quantified and to address the fact that benefits and beneficiaries change over time. AWEA/Clean Grid state that inclusion of a wider range of additional benefit metrics may help to alleviate the need for a portion of costs to be allocated by a postage stamp, but until then, it is still appropriate to allocate a small portion of Market Efficiency Project costs via postage stamp to the full MISO footprint or on a sub-regional basis.[153]

77. MISO South Regulators state that if the new Avoided Reliability Project Savings metric determines whether a Market Efficiency Project would eliminate the need for a separate Baseline Reliability Project or a reliability Other Project, then it is critical that the Market Efficiency Project that replaces a reliability project satisfy all the requirements that the reliability project was designed to address.[154] MISO South Regulators state that the Commission should reject requests to change Filing Parties' proposed cost allocation or voltage thresholds as precluded by the *NRG* decision.[155]

iv. Lowering the Market Efficiency Project Voltage Threshold

78. Several entities submitted comments that generally support lowering the voltage threshold to 230 kV for Market Efficiency Projects. OMS notes that it supports lowering the voltage threshold to 230 kV as an extensively vetted compromise solution supported by the majority of MISO transmission owners and OMS members.[156] Xcel notes that in many cases, when a lower-voltage, 230 kV project is compared with a 345 kV project to meet regional transmission needs, the 345 kV project wins out in terms of cost-effectively and efficiently delivering regional market energy over long distances. Nevertheless, Xcel submits, in certain situations a 230 kV project could be the best or most feasible regional solution to move market energy through the MISO footprint.[157] MISO South Regulators state that the Commission should reject any potential arguments advocating for voltage thresholds other than what MISO has proposed because adoption of such additional

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[153] AWEA/Clean Grid Protest at 7.

[154] MISO South Regulators Comments at 14.

[155] *Id.* at 7.

[156] OMS Comments at 7.

[157] Xcel Comments at 11.

thresholds and methodologies will upset a carefully crafted compromise.[158] Entergy states that, while it believes MISO should retain the current 345 kV threshold for Market Efficiency Projects, it nevertheless supports MISO's proposed tariff revision package as a compromise.[159] Alliant states that it is generally comfortable with lowering the Market Efficiency Project voltage threshold to 230 kV.[160]

79. Several entities argue that the Market Efficiency Project voltage threshold should be reduced to 100 kV, rather than the proposed 230 kV, to more accurately align project cost allocation with the distribution of project benefits.[161] Generator Group states that the Commission should require MISO to demonstrate that its proposal to lower the Market Efficiency Project voltage threshold to 230 kV will lead to more approved transmission projects.[162] Protesting TOs assert that transmission facilities at the 230 kV level make up only approximately 10 percent of the facilities in the MISO footprint and that 230 kV facilities are unlikely to grow in prevalence. They state that, as a result, the proposal to lower the Market Efficiency Project voltage threshold to 230 kV is unlikely to result in an increase in beneficial transmission project development and, instead, the minimum voltage threshold for Market Efficiency Projects should be lowered to 100 kV.[163] The Protesting TOs add that the proposal to lower the voltage threshold for Market Efficiency Projects to 230 kV rather than 100 kV ignores the known congestion on facilities from 230 kV to 100 kV, which make up the majority of the transmission facilities in the MISO footprint and are capable of relieving congestion and provide regional benefits.[164]

80. LS Power contends that, if the Commission determines that the precedent established in *NRG*[165] prohibits it from directing MISO on compliance to lower the Market Efficiency Project voltage to 100 kV, the Commission must reject the filing.

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[158] MISO South Regulators Comments at 4.

[159] Entergy Comments at 10-11.

[160] Alliant Comments at 3.

[161] AWEA/Clean Grid Comments and Limited Protest at 4-5; LS Power Protest at 6-7, 19; Industrial Customers Protest at 3, 6.

[162] Generator Group Protest at 5-6.

[163] Protesting TOs Protest at 7.

[164] *Id.* at 5.

[165] *NRG*, 862 F.3d 108.

LS Power requests that, if that occurs, the Commission open an investigation under section 206 of the FPA to require MISO to show cause as to why its existing 345 kV voltage threshold is just and reasonable and why 100 kV should not be implemented.[166] Alliant states that while it supports Filing Parties' proposal to lower the voltage threshold, as the proposal utilizes the same benefits metrics for Local Economic Projects as it does for Market Efficiency Projects, the voltage threshold for Market Efficiency Projects should further be lowered to 100 kV.[167]

81. LS Power and Industrial Customers argue that MISO's voltage threshold for Market Efficiency Projects is inconsistent with other RTOs/Independent System Operators (ISOs). LS Power states that neither New York Independent System Operator (NYISO) nor California Independent System Operator (CAISO) have a voltage threshold for economic projects, and ISO-NE uses a 115 kV voltage threshold for its version of regional economic projects.[168] Industrial Customers argue that the establishment of the 230 kV threshold for Market Efficiency Projects would be inconsistent with the 100 kV minimum threshold for MISO-PJM Interregional Market Efficiency Projects mandated by the Commission.[169]

82. Generator Group opposes Filing Parties' proposal for excluding certain mixed voltage facilities from Market Efficiency Project and local Economic Project eligibility. Generator Group states there is no basis for Filing Parties' proposal to allow a Market Efficiency Project at 230 kV so long as no more than 50 percent of the Market Efficiency Project cost includes facilities rated below 230 kV. Generator Group states that Filing Parties do not justify the 50 percent threshold to determine how projects are categorized.[170]

v. <u>20-Year Outlook Period</u>

83. Generator Group states that Filing Parties propose to measure benefits over the first 20 years of the life of a proposed transmission facility, as is done with its current

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[166] LS Power Protest at 20.

[167] Alliant Comments at 5.

[168] LS Power Protest at 10-11.

[169] Industrial Customers Protest at 9 (citing NIPSCO Complaint Order, 155 FERC ¶ 61,058).

[170] *Id.* at 13-14.

Market Efficiency Project assessment, is unsupported and inconsistent with much longer actual life of transmission facilities.[171]

vi. Immediate Need Reliability Project Exception

84. Industrial Customers and LS Power oppose the exclusion from competition of Market Efficiency Projects that qualify as Immediate Need Reliability Projects. They state that such an exception will reduce the benefits of the lower 230 kV minimum threshold and could diminish the number of competitive projects.[172] Industrial Customers and LS Power assert that Filing Parties have not presented evidence that demonstrates that competitive bidding would delay construction of Market Efficiency Projects needed for reliability within three years.[173] In this regard, LS Power states that Filing Parties cite no examples where a Baseline Reliability Project was displaced by a Multi-Value Project or Market Efficiency Project, or where such displacement compromised the timing of a reliability need.[174] Industrial Customers urge any such exception be limited to smaller scale projects.[175] Industrial Customers suggest that MISO should establish a dollar threshold that would allow competitive bidding for Market Efficiency Projects above the dollar threshold, but allow an exception from competitive bidding for Market Efficiency Projects that fall below the dollar threshold to the extent such smaller projects are also urgently needed for reliability reasons.[176]

85. Further, LS Power argues that, in order to ensure that the exception is used as a last resort, the Commission should require MISO to revise its proposed exception by including a requirement that MISO and any affected transmission owners take appropriate operational actions that would allow sufficient time for a competitive solicitation process, which MISO and other RTOs/ISOs already routinely utilize.[177] LS Power also requests that the Commission direct MISO to determine whether to use the Immediate Need Reliability Project exception based on whether the relevant project has

[171] Generator Group Protest at 11.

[172] Industrial Customers Protest at 17; LS Power Protest at 3-4.

[173] Industrial Customers Protest at 17; LS Power Protest at 26

[174] LS Power Protest at 26.

[175] Industrial Customers Protest at 16-17.

[176] *Id.* at 17-18.

[177] LS Power Protest at 26-27.

an estimated in-service date within 3 years, rather than a need-by date within three years. LS Power explains that realistic in-service dates are a better barometer of whether a project is an Immediate Need Reliability Project, rather than a need-by date that no developer could meet.[178] LS Power further argues that the proposal does not include all of the requirements that the Commission imposed on other RTOs/ISOs that proposed a similar exception.[179]

86. Alliant states that it is generally comfortable with the Immediate Need Reliability Project exception.[180] Entergy and Xcel generally support the exception for Immediate Need Reliability Projects based on the practices of other RTOs/ISOs. Entergy states that the exception is just and reasonable as PJM, ISO-New England, Inc., (ISO-NE), and SPP have immediate-need project exceptions similar to the one proposed by MISO in its proposed tariff revisions.[181] Xcel states that they support the 36 months "need-by" competitive exception for projects needed to address reliability requirements and notes that similar exceptions have been accepted by the Commission for both SPP and PJM.[182]

87. Xcel notes that, in MISO, the Order No. 1000 competitive process can delay the start of an urgent project by a year or longer. Xcel submits that putting the reliability of the bulk power system at risk to facilitate a competitive process would undermine the obligations of entities subject to the NERC reliability standards compliance obligations.[183]

88. OMS also argues that MISO's limited exception to competitive bidding for Immediate Need Reliability Projects is just and reasonable because this proposal appropriately balances MISO's commitment to competitive transmission development

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[178] *Id.* at 27.

[179] *Id.* at 27-28. LS Power notes that PJM must hold a shortened competitive window or certify that it cannot hold such a window. *Id.* (citing *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 197).

[180] Alliant Comments at 3.

[181] Entergy Comments at 14.

[182] Xcel Comments at 18 (citing *Sw. Power Pool, Inc.,* 144 FERC ¶ 61,059 at PP 197-198; *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at PP 247-255).

[183] *Id.* at 18.

with the need to ensure the continued safe and reliable operation of MISO's transmission system.[184]

b. Answers

i. Cost Allocation Zones and Transmission Pricing Zones

89. Industrial Customers maintain that Filing Parties' cost allocation proposal can cause Transmission Pricing Zones to pay a load ratio share of project costs even when they receive no benefits or negative benefits from a project.[185] Further, Industrial Customers argue that Transmission Pricing Zones within a given Cost Allocation Zone typically do not benefit equally on a per unit basis from a given Market Efficiency Project, which leads to significant distortions in the allocation of project costs at the Transmission Pricing Zone level relative to the distribution of project benefits.[186]

ii. Benefit Metrics

90. In response to protestor arguments that Filing Parties: (1) do not propose enough new metrics and so do not capture all of the potential benefits that could be provided by an economic project; (2) do not adequately consider new metrics due, in part, to the difficulty of accurately measuring and quantifying benefits of a transmission upgrade; and (3) should monitor and consider approaches to balance risks and benefits of new benefit metrics, and propose only those that are supported with a robust business case, MISO South Regulators state that MISO's proposed new benefit metrics should be approved without modification.[187] According to MISO South Regulators, these two new benefit metrics were selected among the 18 benefit metrics considered because they are real (not hypothetical or conditional), can be measured with accuracy and relative precision, and are based on reasonable, practicable assumptions that have broad stakeholder support. MISO South Regulators also point out that stakeholders may continue to advocate for additional benefit metrics through the MISO stakeholder

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[184] OMS Comments at 10-11.

[185] Industrial Customers Answer at 6.

[186] *Id.* at 7-8.

[187] MISO South Regulators Response at 9-10 citing AWEA/Clean Grid Protest at 6; Generator Group Protest at 10; Alliant Comments at 4.

process, and, if warranted, MISO may make additional benefit metrics proposals in the future.[188]

91. Filing Parties state that, because transmission provides multiple types of value and benefits over time, including additional metrics in the analysis will allow for more precise allocation to benefiting loads because more benefits will be considered in determining beneficial projects and assessing the magnitude of the benefits to the beneficiaries.[189] Filing Parties state that the development of the metrics went through several iterations of stakeholder review and feedback, and the Commission should accept the addition of the two new benefit metrics as just and reasonable as proposed and without modifications because they will enhance the identification and alignment of costs and benefits and are supported by a majority of stakeholders.[190]

92. Filing Parties state that the protests regarding the existing Adjusted Production Cost Savings benefit metric should be rejected. Filing Parties state that the proposed revisions do not propose any changes to the application of the Adjusted Production Cost Savings metric and are added solely to provide clarity to the existing provisions, and do not change the current Commission-accepted practice.[191] Filing Parties state that Protesting TOs and Industrial Customers raise objections even though there is no change to the calculation of the Adjusted Production Cost Savings metric.[192] Filing Parties state that, therefore, the Commission should reject these arguments as outside the scope of the proceeding.[193]

93. Filing Parties state that Industrial Customers' argument that the granularity of cost allocation is inadequate and that the Adjusted Production Cost Savings benefits should be allocated down to the Transmission Pricing Zone level fails to acknowledge that the Adjusted Production Cost Savings metric is unchanged with this proposal and the Commission had found MISO's determination of benefits and allocation of costs using

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[188] MISO South Regulators Answer at 9-11.

[189] Filing Parties Answer at 18.

[190] *Id.* at 18-19.

[191] *Id.* at 19.

[192] *Id.* at 20 (citing Protesting TOs Protest at 21 and Industrial Customers Protest at 10-13).

[193] *Id.* at 20.

the Adjusted Production Cost Savings metric just and reasonable.[194] Filing Parties state that in regards to Protesting TOs objection to the continued use of the Adjusted Production Cost Savings metric on the basis that a Transmission Pricing Zone within a Cost Allocation Zone could receive negative benefits is an improper collateral attack on the Commission's orders approving MISO's current Adjusted Production Cost metric.[195]

94. Filing Parties also note that the Adjusted Production Cost Savings metric is one of three benefits metrics that apply, and the application of three independent metrics will further align costs and benefits consistent with the Commission's cost causation principles.[196]

95. Filing Parties state that contrary to Generator Group's claims, they have provided testimony and examples for how the Adjusted Production Cost Savings metric will be assessed and calculated and MISO has a review of additional potential benefits metrics currently underway with stakeholders, including a work plan.[197]

96. In response to Filing Parties' answer, Protesting TOs contend that the prior use of the Adjusted Production Cost Savings metric to allocate costs does not justify its continued use. Protesting TOs state that Filing Parties argue that the proposed regional cost allocation method makes no changes to the Adjusted Production Cost Saving metric "already in place."[198] Therefore, Protesting TOs argue that Filing Parties did not address any of the fundamental flaws in the load ratio share cost allocation associated with the Adjusted Production Cost Saving metric that the Protesting TOs identified.[199] Instead, Filing Parties argue that the Protesting TOs' protest should be dismissed on procedural

[194] *Id.* at 20-21 (citing *Midwest Independent Transmission System Operator, Inc.*, 139 FERC ¶ 61,261, at PP 45-48 (2012) (June 29, 2012 Order) (accepting the proposed methodology, including cost allocation based on load ratio share within each Local Resource Zone [now known as Cost Allocation Zones], and noting challenges to continued use of an existing process beyond the scope of the proceeding)).

[195] *Id.* at 21.

[196] *Id.* at 22.

[197] *Id*. at 19 & n.65.

[198] Protesting TOs Answer at 4 (citing Filing Parties Answer at 20).

[199] *Id.* (citing Protesting TOs Protest at 21-31 and Rasmussen Affidavit).

grounds as a collateral attack on prior Commission orders and an improper challenge raised in a protest.[200]

97. Protesting TOs argue that the Commission must address the merits of the load ratio share cost allocation as a component of the overall cost allocation method filed under Section 205 "to assure that all its parts—old and new—operate in tandem to insure a just and reasonable result. . . ." Protesting TOs believe that they identified fundamental flaws in the arbitrary load ratio share cost allocation that, once factored into the overall cost allocation, will result in unjust and unreasonable rates.[201] Additionally, Protesting TOs point out that Filing Parties proposed new tariff language to describe the Load Ratio Share cost allocation and its contribution to the overall cost allocation for Market Efficiency Projects. According to Protesting TOs, the Commission must review the new tariff language to confirm it will achieve just and reasonable rates. However, Protesting TOs assert that they demonstrated a number of ways in which the Load Ratio Share cost allocation will produce unjust, unreasonable, and unduly discriminatory or preferential rates.[202]

iii. Elimination of the Postage Stamp

98. MISO South Regulators maintain that *NRG* prohibits the Commission from requiring any major changes to a utility's filed proposal. According to MISO South Regulators, lowering the voltage threshold, changing cost allocations, and adding benefit metrics not proposed in the filing would each constitute a major change. Therefore, MISO South Regulators argue that the Commission should reject arguments that the *NRG* decision does not prohibit these major changes.[203]

99. Filing Parties state that the removal of the postage stamp component of cost allocation for Market Efficiency Projects had perhaps the broadest stakeholder support and is supported by the addition of two new benefit metrics in addition to the existing Adjusted Production Cost Savings metric. Filing Parties state that the Avoided Reliability Projects Savings metric and the MISO-SPP Settlement Agreement Cost

[200] *Id.* (citing Filing Parties Answer at 21).

[201] *Id.* at 5.

[202] *Id.* at 6.

[203] MISO South Regulator Response at 14.

metric, along with the existing Adjusted Production Cost Savings metric, will result in improved alignment of costs and benefits.[204]

100. Industrial Customers state that their arguments from their original protest in regards to the granularity of benefits should be considered by the Commission.[205]

iv. Lowering the Market Efficiency Project Voltage Threshold

101. MISO South Regulators assert that, since the Commission previously found the 345 kV threshold just and reasonable, MISO's proposed 230 kV Market Efficiency Project threshold, which furthers competitive development opportunities and increases the magnitude of economic projects that MISO may direct, is therefore also just and reasonable.[206] MISO South Regulators explain that, while a 100 kV threshold could also be just and reasonable, this threshold is not part of the proposal, and requiring such a change would constitute an "entirely different rate" than that proposed by MISO.[207]

102. MISO South Regulators explain that MISO's proposal reflects a reasonable compromise with stakeholders that modifies existing and adds new transmission project types and benefit metrics to increase competitive development opportunities as well as improves the cost allocation method to more accurately recover transmission project costs from customers that benefit. MISO South Regulators point out that, while there may be lower-voltage level thresholds that could be considered just and reasonable, MISO and its stakeholders agreed upon 230 kV as a compromise and the Commission should give deference to the stakeholder-approved filing and reject requests to modify the Market Efficiency Project threshold.[208]

103. MISO South Regulators state that certain protestors' arguments that designating projects between 100 kV and 230 kV as Local Economic Projects will reduce the number of higher voltage economic projects built or favor lower-voltage projects to avoid

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[204] Filing Parties Answer at 17-18.

[205] Industrial Customers Answer at 10.

[206] MISO South Regulators Response at 14 (citing *Midwest Indep. Transmission Sys. Operator, Inc.,* 118 FERC ¶ 61,209, at P 92 (2007)).

[207] *Id.* at 14-15 (citing *NRG*, 862 F.3d at 115).

[208] *Id.* at 6-8.

competitive transmission development are misplaced.[209] According to MISO South Regulators, these arguments ignore that MISO, and not MISO Transmission Owners will identify and then decide whether an economic transmission project should be constructed. MISO South Regulators explain that MISO has no reason to prefer lower-voltage over higher voltage projects, or any incentive to prefer transmission construction by an incumbent transmission owner over a competitive developer since MISO's decision will be driven by selecting those projects that offer the highest benefit-to-cost ratio to MISO customers.

104. In addition, MISO South Regulators explain that if MISO's planning process concludes that a lower-voltage project provides greater benefits for a lesser cost, then it would be economically reasonable to select the Local Economic Project rather than Market Efficiency Project. According to MISO South Regulators, the analysis and decision as to which economic transmission projects to build at the appropriate voltage levels rests with MISO so there will be no transmission owner bias.[210]

105. MISO South Regulators explain that Filing Parties' proposal will promote increased competition for more transmission projects because projects from 230 kV and above, rather than only those from 345 kV and above, will be required to go through MISO's competitive process.[211] With respect to protestor calls for a lower-voltage threshold for Local Economic Projects, Filing Parties state a lower 100 kV voltage threshold for Market Efficiency Projects would not provide a distinction between regional economic projects and local projects intended to serve local needs, that the 230 kV threshold received the most stakeholder support and was most reflective of the size and type of project with regional benefits, and that no party has provided specific evidence that economic projects at or above 100 kV but below 230 kV are significantly likely to provide regional benefits in most cases.[212] Filing Parties state that RTO attributes differ and argue other regions' voltage thresholds or lack thereof are not necessarily relevant to MISO. Filing Parties add that the NIPSCO Orders did not establish that the voltage threshold for all Market Efficiency Projects should be reduced to 100 kV, stating the Commission directed only that the voltage for Market Efficiency

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[209] *Id.* at 9 (citing AWEA/Clean Grid Protest at 9; Industrial Customers Protest at 15; LS Power Protest at 18; OMS Comments at 2 n.3, 11 n.38 (Objection of the Wisconsin Commission)).

[210] MISO South Regulators Response at 9.

[211] *Id.*

[212] Filing Parties Answer at 9-11.

Projects be lowered for interregional projects related to the MISO-PJM seams while rejecting requests to lower the voltage for other purposes.[213]

106. Protesting TOs contend that the Commission should reject Filing Parties' efforts in their Answer to use an arbitrarily high voltage threshold to avoid the identification of beneficiaries and find Filing Parties' proposed lowering of the voltage threshold for Market Efficiency Projects is unjust and unreasonable. Protesting TOs argue that Filing Parties' arguments defending the 230 kV voltage threshold for Market Efficiency Projects are flawed and misconstrue the Protesting TOs' evidence of projects 100 kV to 230 kV with regional benefits. Protesting TOs object to the proposed cost allocation method for Market Efficiency Projects because Filing Parties are seeking to avoid entirely their obligation to identify beneficiaries and allocate costs in a roughly commensurate manner by creating an arbitrarily high voltage threshold of 230 kV for Market Efficiency Projects.[214]

107. Industrial Customers state that they support lowering the voltage threshold for Market Efficiency Projects to 100 kV, which would allow MISO to establish the regional or local nature of a project based on the actual distribution of benefits for each project.[215]

108. LS Power argues that the *NRG* precedent does not prevent the Commission from requiring MISO to lower the voltage threshold proposed for Market Efficiency Projects from 230 kV to 100 kV, nor would such a requirement follow a completely different strategy from Filing Parties' proposal.[216]

v. <u>20-Year Outlook Period</u>

109. Filing Parties state that the use of 20 years to measure benefits for the analysis is consistent with current practice and no changes are needed. Filing Parties explain that using a 20-year period is consistent with industry practice, has been approved by the Commission, and provides greater certainty that the benefits will be realized over that period.[217] Filing Parties go on to state that if the benefits exceed costs over 20 years, then the subsequent years are added benefits.

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[213] *Id.* at 14.

[214] Protesting TOs Answer at 2-3.

[215] Industrial Customers Answer at 8-9.

[216] LS Power Answer at 16-18 (citing *NRG*, 862 F.3d at 115).

[217] Filing Parties Answer at 22 (citing June 29, 2012 Order, 139 FERC ¶ 61,261 at

vi. Immediate Need Reliability Project Exception

110. With respect to the proposed Immediate Need Reliability Project exception, Filing Parties state that LS Power's suggestion that MISO should be required to adopt some of "the requirements that the Commission imposed on other RTOs" such as PJM's "shortened proposal window," is inappropriate because those conditions were tailored to the form of competition that PJM adopted.[218]

111. Filing Parties assert that other alternatives proposed by LS Power are unnecessary and not workable and that Industrial Customers' proposal to include a dollar threshold is inappropriate because the relevant concerns are reliability-, not cost-, based.[219]

112. LS Power states that Filing Parties have not shown that there is a need to have the Immediate Need Reliability Project exception in MISO's Tariff, and that they only rely on the argument that the Commission has accepted such proposals in other regions.[220] LS Power states that Filing Parties have not justified their use of a project's in-service date as opposed to its need-by date. Further, LS Power states that Filing Parties do not address evidence that Baseline Reliability Projects with higher voltages also have longer lead times, which in turn give MISO sufficient time to conduct a review.[221]

c. Commission Determination

i. Cost Allocation Zones and Transmission Pricing Zones

113. Filing Parties' proposal to continue to use the Adjusted Production Cost Savings metric appears reasonable in light of the current record in these proceedings. We do not share the concerns of Industrial Customers that Filing Parties' proposal to continue to allocate the Adjusted Production Cost Savings to Cost Allocation Zones is flawed because Transmission Pricing Zones within a Cost Allocation Zone do not typically benefit equally on a per unit basis from a given Market Efficiency Project. We agree with Filing Parties that, because MISO proposes to continue to use the same benefit

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P 29).

[218] *Id*. at 34.

[219] *Id*. at 35-37.

[220] LS Power Answer at 14.

[221] *Id.* at 15-16.

metric in this filing, such protests represent a collateral attack on previous Commission findings. As stated in the June 29, 2012 Order, "[a]lthough the Commission has the duty of 'comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party,' this does not require a customer-by-customer or load-zone by load-zone benefit-cost analysis."[222]

ii. Benefit Metrics

114. We do not share commenters' concerns about Filing Parties' proposal to add the two additional benefits metrics to its cost allocation method for Market Efficiency Projects. The additional Avoided Reliability Project Cost Savings Metric and the MISO-SPP Settlement Agreement Cost Metric can be accurately measured and are based on reasonable assumptions. We believe that reduced congestion in the MISO-SPP settlement region and avoided reliability projects are beneficial metrics in the cost allocation method because these Market Efficiency Project metrics improve the current MTEP by identifying benefits on a more comprehensive basis and, thus, better adhere to the cost causation principle.

iii. Elimination of the Postage Stamp

115. Based on the record in these proceedings, we see no objection to Filing Parties' proposal to remove the 20 percent postage stamp from its cost allocation for Market Efficiency Projects. While the first Order No. 1000 cost allocation principle generally requires that the costs of transmission projects be allocated to those that derive benefits from them, this principles does not prescribe the vehicle by which a public utility must effectuate this result. We see the current proposal, which would allocate 100 percent of Market Efficiency Project costs on a regional basis based on a Transmission Pricing Zone's identifiable benefits for a specific Market Efficiency Project, as determined through three separate benefits metrics rather than through the current single benefit metric, as an improvement over the current cost allocation methodology. In addition, the inclusion of the two proposed benefit metrics for Market Efficiency Projects will help MISO more accurately identify beneficiaries of Market Efficiency Projects. For this reason, we agree that, in light of the addition of the new metrics, the decision to allocate the costs of Market Efficiency Projects entirely upon the basis of the results of the benefit metrics analysis is preferable to the existing method and this aspect of Filing Parties' proposal seems reasonable.

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[222] June 29, 2012 Order, 139 FERC ¶ 61,261 at P 45 (citing *Southwest Power Pool, Inc.*, 137 FERC ¶ 61,075, at P 24 (2011) (citing *Illinois Commission v. FERC*, 576 F.3d at 476-77 (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d at 1368))); *Midwest Indep. Transmission Sys. Operator,* Inc., 133 FERC ¶ 61,221, at P 195 (2010), *order on reh'g*, 137 FERC ¶ 61,074 (2011).

116. In response to AWEA/Clean Grid's assertions that a postage stamp allocation can be an effective cost allocation tool for less easily quantifiable benefits, we believe that the two new benefit metrics, along with the current Adjusted Production Cost Savings metric, provide a sufficient measure of benefits to allocate costs more precisely to benefiting loads. While we also agree with AWEA/Clean Grid that using a postage stamp approach to allocate costs can address the fact that benefits and beneficiaries can change over time, we believe that MISO's proposal sufficiently allocates costs to beneficiaries received. We do not share AWEA/Clean Grid's concern that MISO needs to retain any postage stamp allocation with the inclusion of the new benefit metrics.

117. We do not share Generator Group's concern that the proposed MISO-SPP Settlement Agreement Costs Savings metric and the Avoided Reliability Project Savings metric categories are insufficient. Filing Parties have adequately supported their assertion that the new benefit metrics can be accurately measured and used to allocate costs to the benefiting loads.

iv. 20-Year Outlook Period

118. We do share Generator Group's concerns regarding Filing Parties' proposal to use a 20-year outlook period for measuring future benefits. In particular, we disagree that the period in which predicting future benefits must exactly match the lifespan of such projects. As we have stated previously, twenty years is a reasonable outlook for cost allocations purposes, even though benefits may accrue well after twenty years of service.[223]

v. Lowering the Market Efficiency Project Voltage Threshold

119. We also believe Filing Parties' proposal to lower the Market Efficiency Project minimum voltage threshold from 345 kV to 230 kV appears reasonable based upon the record in these proceedings. In conjunction with the proposed increase in benefit metrics, lowering the voltage threshold would increase the universe of projects eligible to be considered a Market Efficiency Project. As such, it also expands the number of potential projects that are eligible for MISO's Competitive Developer Selection Process.

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[223] *Midwest Indep. Transmission Sys. Operator, Inc.*, 133 FERC ¶ 61,221 at P 214 (". . . because [Multi-Value Projects] are projects that provide regional benefits, we find that a benefit-to-cost ratio of 1.0 is just and reasonable because it ensures that the multiple economic benefits to all users is at least equal to the costs allocated to all users over the 20 years of service that are evaluated. Moreover, we also agree with Filing Parties that benefits are expected to accrue well after 20 years of service").

120. We do not share concerns with protestors that assert that the proposal to lower the voltage requirement for Market Efficiency Projects to 230 kV will not lead to more approved transmission projects. Lowering the voltage requirement for Market Efficiency Projects will increase the universe of projects eligible to qualify as a Market Efficiency Project. At the very least, Filing Parties' proposal will not reduce the amount of eligible projects, and as such, Filing Parties' proposed voltage seems to be a reasonable improvement over the current minimum 345 kV threshold for Market Efficiency Projects.

vi. <u>Immediate Need Reliability Exception</u>

121. With respect to the proposed Immediate Need Reliability Project category, the Commission has previously found that an exception to the competition process should only be used in limited circumstances. As such, on previous occasions, the Commission has applied five criteria, which place reasonable bounds on discretion to determine whether there is sufficient time to permit competition to develop reliability projects and, as a result, will ensure that an exception from the requirement to eliminate a federal right of first refusal for reliability projects will be used in limited circumstances.[224]

122. In previously accepting other transmission planning regions that utilize an exception for reliability projects needed within three years, the Commission found that the goals of Order No. 1000 and the ability of incumbent transmission developers, as well as RTOs, to meet reliability transmission needs may be reasonably balanced where the five criteria are applied.[225] Filing Parties' proposed exception largely conforms to the five criteria by mirroring reliability exceptions previously accepted by the Commission.[226]

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[224] *See*, *e.g.*, *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 248.

[225] *See Sw. Power Pool, Inc.,* 144 FERC ¶ 61,059; *ISO New England Inc.*, 143 FERC ¶ 61,150 at PP 235-241; and *PJM Interconnection, L.L.C.,* 142 FERC ¶ 61,214.

[226] We note, however, that the report that Filing Parties propose MISO to post within thirty calendar days after the MISO Board of Directors approves the respective MTEP would make clear to stakeholders how MISO assigns an Immediate Need Reliability Project to an incumbent transmission owner. However, the report that MISO would post under the proposed process does not include an explanation of other transmission or non-transmission options that MISO considered but concluded would not sufficiently address the immediate reliability need. If MISO chooses to resubmit a proposal for Immediate Need Reliability Projects, it should consider how its proposal fully meets this aspect of the third criterion.

4. MISO TO Agreement

a. Commission Determination

123. Filing Parties' proposed revisions to the MISO TO Agreement include references to, and rely upon, the tariff changes that Filing Parties included in Docket No. ER19-1124-000 but that we are rejecting. As such, we also reject the filing in Docket No. ER19-1125-000.

The Commission orders:

Filing Parties' filings are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

MISO Transmission Owners

Ameren Services Company, as agent for Union Electric Company, Ameren Illinois Company; American Transmission Company LLC; Arkansas Electric Cooperative Corporation; Big Rivers Electric Corporation; Cleco Power LLC; East Texas Electric Cooperative; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, LLC; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indianapolis Power and Light Company; International Transmission Company; ITC Midwest LLC; Lafayette Utilities System; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; and Southern Minnesota Municipal Power Agency.

Motions to Intervene

Ameren Services Company (Ameren) (Docket Nos. ER19-1124-000 and ER19-1125-000)[227]

American Municipal Power, Inc. (American Municipal) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Association of Businesses Advocating Tariff Equity (ABATE) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Consumers Energy Company (Docket Nos. ER19-1124-000 and ER19-1125-000)

Cooperative Energy (Docket No. ER19-1124-000)

Dairyland Power Cooperative (Dairyland) (Docket Nos. ER19-1124-000 and ER19-1125-000)

DTE Electric Company (DTE) (Docket Nos. ER19-1124-000 and ER19-1125-000)

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[227] Ameren Services Company moved to intervene on behalf of its affiliates Ameren Illinois Company, Ameren Transmission Company of Illinois, and Union Electric Company.

Duke Energy Corporation (Duke) (Docket Nos. ER19-1124-000 and ER19-1125-000)

EDF Renewables, Inc. (EDF) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Enel Green Power North America, Inc. (Docket Nos. ER19-1124-000 and ER19-1125-000)

Exelon Corporation (Exelon) (Docket Nos. ER19-1124-000 and ER19-1125-000)

E.ON Climate & Renewables North America, LLC (E.ON) (Docket Nos. ER19-1124-000 and ER19-1125-000)

GridLiance Heartland LLC (Docket No. ER19-1124-000)

Illinois Industrial Energy Consumers (IIEC) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Indiana Municipal Power Agency (IMPA) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Louisiana Energy Users Group (LEUG) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Midwest TDUs (Docket Nos. ER19-1124-000 and ER19-1125-000) [228]

MISO TOs (Docket No. ER19-1125-000)[229]

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[228] Midwest TDUs refers to Madison Gas and Electric Company, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, and WPPI Energy.

[229] The intervening MISO Transmission Owners for purposes of this filing are: Ameren Services Company, as agent for Union Electric Company, Ameren Missouri; Ameren Illinois Company, Ameren Illinois and Ameren and Ameren Transmission Company of Illinois; American Transmission Company LLC; Arkansas Electric Cooperative Corporation; Big Rivers Electric Corporation; Cleco Power LLC; East Texas Electric Cooperative; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, LLC; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indianapolis Power and Light Company; International Transmission Company, ITC Transmission; ITC Midwest LLC; Lafayette Utilities System; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water,

Northern Indiana Public Service Company LLC (NIPSCO) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Wabash Valley Power Association, Inc. (Wabash) (Docket No. ER19-1124-000)

Wisconsin Electric Power Company, Wisconsin Public Service Corporation, and Upper Michigan Resources Corporation (collectively, WEC Utilities) (Docket No. ER19-1125-000)

Wisconsin Industrial Energy Group (WIEG) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Wolverine Power Supply Cooperative, Inc. (Wolverine) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Notices of Intervention

Arkansas Public Service Commission (Arkansas Commission) (Docket No. ER19-1124-000)

Council of the City of New Orleans (New Orleans Council) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Illinois Commerce Commission (Illinois Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Indiana Utility Regulatory Commission (Indiana Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Louisiana Public Service Commission (Louisiana Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Mississippi Public Service Commission and Mississippi Public Utilities Staff (Mississippi Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; and Southern Minnesota Municipal Power Agency.

Public Service Commission of Wisconsin (Wisconsin Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Public Utility Commission of Texas (Texas Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Out-of-time Motions to Intervene

Texas Industrial Energy Consumers (Docket No. ER19-1124-000)

Interventions and Comments and/or Protests

American Wind Energy Association and Clean Grid Alliance (AWEA/Clean Grid) (Docket Nos. ER19-1124-000, ER19-1125-000, and ER19-1156-000)

Entergy Services, LLC (Docket Nos. ER19-1124-000 and ER19-1125-000)

Generator Group (Docket Nos. ER19-1124-000, ER19-1125-000, and ER19-1156-000)[230]

Industrial Customers (Docket Nos. ER19-1124-000 and ER19-1125-000)[231]

Joint Protesting Transmission Owners (Protesting TOs) (Docket Nos. ER19-1124-000 and ER19-1125-000)[232]

LSP Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, LLC (collectively, LS Power) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Michigan Public Service Commission (Michigan Commission) (Docket Nos. ER19-1124-000 and ER19-1125-000)

MISO South Regulators (Docket Nos. ER19-1124-000 and ER19-1125-000)[233]

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[230] Generator Group consists of EDF, E.ON, and Enel.

[231] Industrial Customers consist of IIEC, ABATE, LEUG, and TIEC.

[232] Protesting TOs consist of Dairyland, Duke, IMPA, NIPSCO, and Wabash.

[233] MISO South Regulators consist of the Arkansas Commission, the Louisiana Commission, and the Mississippi Commission.

Organization of MISO States (OMS) (Docket Nos. ER19-1124-000 and ER19-1125-000)[234]
WEC Utilities (Docket No. ER19-1124-000)

Xcel (Docket Nos. ER19-1124-000 and ER19-1125-000)

Out-of-time Motions to Intervene and Comments

Missouri Commission (Docket Nos. ER19-1124-000 and ER19-1125-000)

Comments and/or Protests

Alliant Energy Corporate Services, Inc. (Alliant) (Docket Nos. ER19-1124-000 and ER19-1125-000)

Answers/Replies/Responses

Filing Parties (Docket Nos. ER19-1124-000 and ER19-1125-000)

Industrial Customers (Docket Nos. ER19-1124-000 and ER19-1125-000)

LS Power (Docket Nos. ER19-1124-000 and ER19-1125-000)

Michigan Commission (Docket Nos. ER19-1124-000 and ER19-1125-000)

MISO South Regulators (Docket Nos. ER19-1124-000 and ER19-1125-000)

Protesting TOs (Docket Nos. ER19-1124-000 and ER19-1125-000)

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[234] OMS is an organization made up of representatives from 17 jurisdictions with regulatory bodies having jurisdiction over MISO participating entities. The Missouri Public Service Commission (Missouri Commission), Michigan Commission, the Indiana Commission, the Wisconsin Commission, and the Kentucky Public Service Commission do not join in OMS's statement that all of the proposed tariff revisions are just and reasonable. OMS Comments at n.3. The Illinois Commission does not support MISO's Market Efficiency Project voltage threshold reduction, addition of benefit metrics, creation of the Local Economic Project category, or applying those concepts in an inter-regional context. *Id.* n.4.